

MARY E WHITE

VS. CMH HOMES, INC.

LINE DATE ACTION

1 08/26/19 CASE FILED
2 CIVIL CASE SHEET
3 COMPL WITH PLTF'S FIRST SET OF INTERR & RQSTS FOR PRDCTN OF
4 DCMNTS & THINGS ATTACHED THEREOF
5 NOT OF SERVICE BY FIRST CLASS MAIL
6 SUMM, COMPL WITH INTERR & RQSTS FOR PRDCTN OF DCMNTS & THINGS
7 ISSUED & SENT TO SOS FOR SERVICE ON CMH HOMES, INC., DBA CLAYTON
8 HOMES MORGANTOWN & R&J CONTRACTING, LLC
9 SUMM, COMPL WITH INTERR & RQSTS FOR PRDCTN OF DCMNTS & THINGS
10 ISSUED & SENT BY CM TO ANDREW CAMEON
11 FILE CPY OF SUMM
12 CM RCPT #7018 2290 0002 1477 8132

MLW



**Service of Process
Transmittal**

09/03/2019

CT Log Number 536166720

TO: SHARON WEBB
The Clayton Companies
5000 Clayton Rd
Maryville, TN 37804-5550

RE: Process Served in West Virginia

FOR: CMH HOMES, INC. (Domestic State: TN)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: MARY E. WHITE, PLTF. vs. CMH HOMES, INC., ETC., ET AL., DFTS.

DOCUMENT(S) SERVED: NOTICE(S), SUMMONS, COMPLAINT, INTERROGATORIES, CERTIFICATE

COURT/AGENCY: BROOKE COUNTY CIRCUIT COURT, WV
Case # 19C61

NATURE OF ACTION: Plaintiff Demands A Trial By Jury

ON WHOM PROCESS WAS SERVED: C T Corporation System, Charleston, WV

DATE AND HOUR OF SERVICE: By Certified Mail on 09/03/2019 postmarked on 08/29/2019

JURISDICTION SERVED : West Virginia

APPEARANCE OR ANSWER DUE: Within 30 days after service of this summons upon you, exclusive of the day of service.

ATTORNEY(S) / SENDER(S): Sandra K. Law, Esq.
Schrader Companion Duff & Law, PLLC
401 Main Street
Wheeling, WV 26003
304-233-3390

ACTION ITEMS: SOP Papers with Transmittal, via UPS Next Day Air , 1ZX212780125750039
Image SOP
Email Notification, Todd Fulks todd.fulks@claytonhomes.com
Email Notification, SHARON WEBB sharon.webb@claytonhomes.com
Email Notification, Bryan Powell bryan.powell@claytonhomes.com
Email Notification, Audra Norwood audra.norwood@claytonhomes.com
Email Notification, Todd Maynard todd.maynard@claytonhomes.com
Email Notification, Cindi Day cindi.day@claytonhomes.com

SIGNED: C T Corporation System
ADDRESS: 1627 Quarrier St
Charleston, WV 25311-2124



**Service of Process
Transmittal**

09/03/2019

CT Log Number 536166720

TO: SHARON WEBB
The Clayton Companies
5000 Clayton Rd
Maryville, TN 37804-5550

RE: Process Served in West Virginia

FOR: CMH HOMES, INC. (Domestic State: TN)

For Questions:

302-658-7581/7582/7583

Page 2 of 2 / AK

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

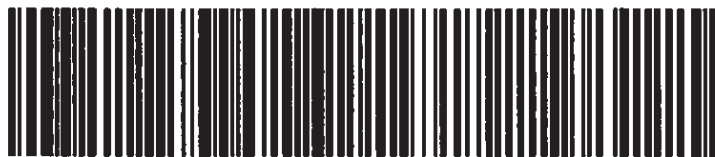
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Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



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9214 8901 1251 3410 0002 5763 15

Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
886-767-8683
Visit us online:
www.wvsos.com

CMH HOMES, INC.
C. T. Corporation System
1627 QUARRIER ST.
CHARLESTON, WV 25311

Control Number: 245014

**Defendant: CMH HOMES, INC.
1627 QUARRIER ST.
CHARLESTON, WV 25311 US**

Agent: C. T. Corporation System

County: Brooke

Civil Action: 19-C-61

Certified Number: 92148901125134100002576315

Service Date: 8/29/2019

I am enclosing:

1 interrogatories, 1 request for production, 1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your corporation.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in the name and on behalf of your corporation as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

A handwritten signature in cursive script that reads "Mac Warner".

Mac Warner
Secretary of State

IN THE CIRCUIT COURT OF BROOKE COUNTY, WEST VIRGINIA

MARY E. WHITE

Plaintiff

VS.

CIVIL ACTION NO. 19-C-61

JUDGE: DAVID J SIMS

~~CMH HOMES, INC., d/b/a Clayton Homes Morgantown, WV and ANDREW CAMEON, and R & J CONTRACTING, LLC., and DOUG BOWSER~~
Defendants

NOTICE OF SERVICE BY FIRST CLASS MAIL

To: PROCESS SECTION
SECRETARY OF STATE
BUILDING 1 SUITE 157K
1900 KANAWHA BLVD EAST
CHARLESTON WV 25305-0770

The enclosed summons and complaint are served pursuant to Rule 4(d)(1)(C) of the West Virginia Rules of Civil Procedure.

You must complete the acknowledgment part of this form and return one copy of the completed form to the Office of the Clerk of the Circuit Court of Brooke County within 20 days.

You must sign and date the acknowledgment. If you are served on behalf of a corporation, unincorporated association(including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

If you do not complete and return the form to the Office of the Clerk of the Circuit Court of Brooke County within 20 days, you(or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law.

If you do not complete and return this form, you(or the party on whose behalf you are being served) must answer the complaint within 30 days. If you fail to do so, judgement by default may be taken against you for the relief demanded in the complaint, except for divorce cases in which irreconcilable differences are stated as the grounds.

I declare that this Notice and Acknowledgment of Receipt of Summons and Complaint was mailed on the 26 day of August, 2019

GLENDIA BROOKS
By: [Signature]
Deputy

August 26, 2019

ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

I declare that I have received a copy of the summons and of the complaint in the above-captioned matter at

(address)

Signature

Relationship to Entity/Authority to Receive
Service of Process

Date of Signature

IN THE CIRCUIT COURT OF BROOKE COUNTY, WEST VIRGINIA

MARY E. WHITE

Plaintiff

VS.

CIVIL ACTION NO. 19-C-61

JUDGE: DAVID J SIMS

~~CMH HOMES, INC., d/b/a Clayton Homes Morgantown, WV and ANDREW~~
~~CAMEON, and R & J CONTRACTING, LLC., and DOUG BOWSER~~
Defendants

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By: GLENDIA BROOKS

Deputy

August 26, 2019

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(address)

Signature

Relationship to Entity/Authority to Receive
Service of Process

Date of Signature

ORIGINAL

SUMMONS

CIRCUIT COURT OF BROOKE COUNTY, WEST VIRGINIA

MARY E WHITE

PLAINTIFF,

VS.

CIVIL ACTION NO. 19-C-61

JUDGE: DAVID J. SIMS

**CMH HOMES, INC., d/b/a Clayton Homes Morgantown, WV, ANDREW
CAMEON, and R & J CONTRACTING, LLC., AND DOUG BOWSER
DEFENDANTS.**

ACCEPTED FOR
SERVICE OF PROCESS
2019 AUG 29 A 8:59
CLERK OF COURT
BROOKE COUNTY
WEST VIRGINIA

To the above named Defendant:

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby Summoned and required to serve upon SANDRA LAW, plaintiff's attorney, whose address is 401 MAIN STREET, WHEELING, WV, 26003 an answer including any related counterclaim you may have to the complaint filed against you in the above civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above style civil action.

GLENDIA BROOKS
CLERK OF COURT

Dated: August 26, 2019

BY: 
DEPUTY CLERK

Please Serve:

**CMH HOMES, INC. D/B/A
CLAYTON HOMES
MORGANTOWN, WV
C/O CT CORPORATION SYSTEM
1627 QUARRIER STREET
CHARLESTON, WV 25322-2124**

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IN THE CIRCUIT COURT OF BROOKE COUNTY, WEST VIRGINIA

MARY E. WHITE,

Plaintiff,

v.

Civil Action No. _____

CMH HOMES, INC., d/b/a Clayton
Homes Morgantown, WV, and ANDREW
CAMEON, and R & J CONTRACTING,
LLC., and DOUG BOWSER,

Defendants.

COMPLAINT

Comes now the Plaintiff, Mary E. White, and files the following Complaint
against CMH Homes, Inc., d/b/a Clayton Homes Morgantown, WV, Andrew Cameon, R
& J Contracting, LLC and Doug Bowser.

1. The Plaintiff is a resident of Brooke County, West Virginia.
2. Defendant CMH Homes, Inc. (hereinafter "CMH") is a Tennessee corporation, conducting business in West Virginia under the trade name of Clayton Homes Morgantown, WV.
3. Andrew Cameon is a West Virginia resident, and the Home Center Manager for Clayton Homes Morgantown, WV.
4. R & J Contracting, LLC is a West Virginia limited liability company and a licensed contractor in West Virginia.
5. Doug Bowser is a West Virginia resident, and is a non-licensed contractor in West Virginia.

6. On or about July 6, 2017, the Plaintiff entered into a contract with Defendant CMH for the purchase of a manufactured home, to be delivered and installed on the Plaintiff's property in Brooke County, West Virginia.
7. Prior to delivery of the home, the contract required Defendant CMH to have a licensed dealer or contractor inspect the home site, conduct a soil evaluation test and design footings.
8. Prior to delivery of the home, the contract required Defendant CMH to have a licensed dealer or contractor complete the foundation, including digging footings and pouring concrete.
9. The contract required the foundation and home installation to be constructed in accordance with the Manufactured Installation Manual accompanying the home, and in a method approved by the West Virginia Manufactured Housing Construction and Safety Standards Board.
10. At the time of signing the contract, the Defendant's representative told the Plaintiff their work on her foundation would begin immediately.
11. Defendant R & J Contracting inspected the site and, contrary to the contract, told the Plaintiff she was required to dig the hole for the foundation.
12. Defendants CMH and Cameron, contrary to the contract, also tried to convince the Plaintiff that she should dig the hole for the foundation.
13. When the Plaintiff refused to dig her foundation, Defendant Cameon told her that Defendant Bowser, who is not a licensed contractor, would be performing her foundation work.

14. The Plaintiff made numerous calls and sent numerous texts to Defendant CMH and Cameon, and calls to Bowser, asking when the foundation work would begin. Whenever the Defendants responded, they would falsely tell the Plaintiff work would start "next week," or "soon."
15. Machinery necessary for the foundation work was delivered to the Plaintiff's property on or about June 13, 2018. Defendant Bowser worked on the foundation off and on until August 21, 2018.
16. Defendant Bowser told the Plaintiff he had wanted to start the foundation work in March of 2018, but CMH hadn't drawn up a contract or issued him payment, and did not allow him to start working on the foundation until June 2018.
17. Defendant Bowser did not perform the foundation work in a workmanlike manner, in accordance with industry standards or consistent with CMH plans or the home's specifications.
18. The foundation provided by the Defendants does not meet West Virginia statutory building code requirements.
19. The Plaintiff repeatedly complained about the poor quality of Bowser's work to the Defendants. The Defendants have taken no action to correct any of the foundation problems.
20. The Plaintiff repeatedly requested copies of the foundation blueprints, and Defendant CMH and Cameon refused to produce them.
21. As of this date, more than two years after the parties entered into the contract, the Defendants have not timely, appropriately, or in compliance with

regulations, plans and industry standards, completed or repaired the Plaintiff's foundation.

22. As of this date, the Defendants have not delivered or installed the Plaintiff's home.

23. The Defendants conduct in failing to conduct a soil evaluation test is a fraud, intentional misconduct, a breach of contract, and a violation of West Virginia industry standards, the West Virginia Consumer Protection Act, and the Magnuson-Moss Warranty Act.

24. The Defendants conduct, in telling the Plaintiff she was required to dig the hole for her foundation, was an intentional misrepresentation and a breach of contract.

25. The Defendants delay of over a year in completing her foundation work was unreasonable and a breach of contract.

26. The Defendants negligently constructed the Plaintiff's foundation.

27. The Defendants' construction of the Plaintiff's foundation was a breach of contract, and a violation of West Virginia industry standards, the West Virginia Consumer Protection Act, and the Magnuson-Moss Warranty Act.

28. The Defendants' failure to repair the Plaintiff's foundation is a breach of contract and a violation of the West Virginia Consumer Protection Act, and the Magnuson-Moss Warranty Act.

29. The Defendants' failure to deliver and install the Plaintiff's manufactured home is fraud, intentional misconduct, a breach of contract, and a violation of

the West Virginia Consumer Protection Act, and the Magnuson-Moss Warranty Act.

- 30. The Defendants acts and omissions constitute fraud, intentional misconduct, breach of contract, and a violation of the West Virginia Consumer Protection Act and the Magnuson-Moss Warranty Act.**
- 31. On or about March 4, 2019, the Plaintiff sent a written request for mediation of her complaints to CMH, in accordance with the Defendant's Binding Dispute Resolution Agreement. A second written request for mediation was sent on March 18, 2019. CMH did not respond to the mediation requests.**
- 32. On or about April 12, 2019, the Plaintiff filed papers, and paid a fee, to the AAA, requesting mediation, as required by the Defendant CMH's Binding Dispute Resolution Agreement.**
- 33. On or about May 1, 2019, the parties agreed to a mediator, and proposed dates for mediation in mid-May were sent to the Defendant CMH. The Defendant did not respond to the request to schedule the mediation in May 2019.**
- 34. On or about June 4, the Defendant CMH indicated it would schedule the mediation, and provided proposed mediation dates in July of 2019. The Plaintiff immediately agreed to the proposed mediation dates in July of 2019, but the Defendant never scheduled the mediation.**
- 35. For over five months, the Plaintiff has attempted to get the Defendant CMH to comply with its own Binding Dispute Resolution Agreement.**
- 36. The Defendants failure to timely engage in mediation is a breach of the subject Dispute Resolution Agreement, rendering it null and void.**

37. The Defendants' conduct in this matter has caused the Plaintiff monetary loss, aggravation, inconvenience, mental distress, financial stress, attorney fees and expenses.

38. The Defendants' conduct in this matter also entitles the Plaintiff to punitive damages.

PLAINTIFF DEMANDS A TRIAL BY JURY.

MARY E. WHITE, Plaintiff,

BY: *Sandra K. Law*
Counsel for Plaintiff

Frank X. Duff, Esq. (WV 1065)
Sandra K. Law, Esq. (WV 6071)
Schrader Companion Duff & Law, PLLC
401 Main Street
Wheeling, WV 26003
(304) 233-3390

IN THE CIRCUIT COURT OF BROOKE COUNTY, WEST VIRGINIA

MARY E. WHITE,

Plaintiff,

v.

Civil Action No. _____

CMH HOMES, INC., d/b/a Clayton
Homes Morgantown, WV, and ANDREW
CAMEON, and R & J CONTRACTING,
LLC., and DOUG BOWSER,

Defendants.

**PLAINTIFF' S FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to Rules 33 and 34 of the West Virginia Rules of Civil Procedure, the Plaintiff requests that Defendant answer the following interrogatories and requests for production of documents.

PRELIMINARY INSTRUCTIONS AND DEFINITIONS

(A) Each interrogatory and request is continuing in nature. If, after serving an answer to any interrogatory or request for a document, the Defendant obtains or becomes aware of any further information pertaining to such matters, then the Defendant is requested to serve upon the Plaintiff amended or supplementing answers or responses setting forth such information.

(B) "Document" means the original or copies of any written, recorded, graphic, or computer generated matter, however produced, reproduced, stored or saved, including any journal, form, book, pamphlet or periodical, article, letter, correspondence, corporate minutes, telegram, report, memorandum, intra-office and inter-office communications, including electronic mail (E-mail), text messages, instant messaging, checks or drafts, working paper, record, study, bulletin, order, photograph, resolution, notebook, diary, blog, social media posting, chart, x-ray, index, data sheet, data processing card or tape recordings, transcriptions thereof, electronic data compilations from which information can be obtained, including any deleted matter now stored in a backup system or memory (e.g. hard drive, floppy disk, digital data storage, electronic tape storage, CD-ROM, CD, jump drive, electronic bulletin board service, or cloud service), microfilm, voice mails and all other memorials of any conversations, meetings and conferences, by telephone or otherwise, and all other written, recorded, graphic, computer, phone or PDA (e.g. blackberry) generated matter, however, produced, reproduced, stored, or saved which are in defendants possession, custody or control or in the possession, custody or control of any agent, employee or representative of the Defendant or Defendant' s attorneys.

(C) "Identify" or "identification" when used with reference to an individual person, means to state his or her full name, last known address, position and business affiliations at the time of the transaction covered by the interrogatory answered and, when used with reference to documents, means to describe the categories and their author(s) and the date of their execution. If such documents were, but are no longer, in the possession of the Defendant, or subject to Defendant's control, state the disposition and the date thereof.

INTERROGATORIES

Interrogatory No. 1: Please identify all individuals who were involved in any transactions or communications with the Plaintiff, and describe the nature of these transactions or communications.

Answer:

Interrogatory No. 2: Please identify all individuals responsible for performing the foundation work performed at the Plaintiff's home site, responding to the Plaintiff's numerous complaints about the foundation work performed by the Defendants at her home site, and what responses were given to the Plaintiff.

Answer:

Interrogatory No. 3: Please identify all individuals responsible for responding to the Plaintiff's request for mediation.

Answer:

Interrogatory No. 4: Please indicate how many times the Plaintiff contacted the Defendants, either by phone, text, letter, voicemail or e-mail after she signed the contract for her home on July 6, 2017, and the reason for these communications.

Answer:

Interrogatory No. 5: Please identify the individual(s) responsible for conducting the soil testing at the Plaintiff's site, any labs that performed the testing, a description of the testing performed, and when the testing was conducted.

Answer:

Interrogatory No. 6: Please state all reasons why the Plaintiff's foundation was not started until more than a year after she signed her contract on July 6, 2017.

Answer:

Interrogatory No. 7: Please identify all persons who performed work on the Plaintiff's foundation, and the contractor responsible for the work.

Answer:

Interrogatory No. 8: Please state all of the findings of Eric Tompos regarding his inspection of the Plaintiff's property and foundation on or about July 17, 2019.

Answer:

REQUESTS FOR PRODUCTION

Request No. 1: Please produce all records, files, e-mails, texts and documentation you have regarding the Plaintiff.

Response:

Request No. 2: Please produce all voicemails, phone logs, e-mails, letters, texts or any other documentation of communications to, from or with the Plaintiff.

Response:

Request No. 3: Please produce any and all notes, reports, communications or documentation from Eric Tompos regarding his inspection, opinions and conclusions of the Plaintiff's site on July 17, 2019.

Response:

Request No. 4: Please produce the soil testing results, reports and documentation for the Plaintiff's site.

Response:

Request No. 5: Please produce all complaints, whether informal or formal, against the Defendants for their foundation work, for poor workmanship, and for failure to timely deliver a home.

Response:

MARY E. WHITE, Plaintiff,

BY: 
Counsel for Plaintiff

Frank X. Duff, Esq. (WV 1065)
Sandra K. Law, Esq. (WV 6071)
Schrader Companion Duff & Law, PLLC
401 Main Street
Wheeling, WV 26003
(304) 233-3390

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing **PLAINTIFF'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS** was served with the Complaint.

MARY E. WHITE, PLAINTIFF

By: *Sandra K. Law*
Counsel for Plaintiff

Frank X. Duff, Esq. (WV 1065)
Sandra K. Law, Esq. (WV 6071)
SCHRADER COMPANION DUFF & LAW, PLLC
401 Main Street
Wheeling, West Virginia 26003
(304) 233-3390

**CIRCUIT COURT BROOKE COUNTY
GLEND A BROOKS, CLERK
302 COURTHOUSE SQUARE
P.O. BOX 474
WELLSBURG, WV 26070**



**CIRCUIT COURT BROOKE COUNTY
GLEND A BROOKS, CLERK
302 COURTHOUSE SQUARE
P.O. BOX 474
WELLSBURG, WV 26070**



West Virginia Secretary of State

Mac Warner

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Online Help Chat
is Available

8:30 am - 4:30 pm

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Civil action #	County	Defendant	Serviced
19-C-61	Brooke	R&J CONTRACTING LLC	Thursday, August 29, 2019
19-C-61	Brooke	CMH HOMES, INC.	Thursday, August 29, 2019

Total: 2 results

Online Help Chat
is Available

8:30 am - 4:30 pm

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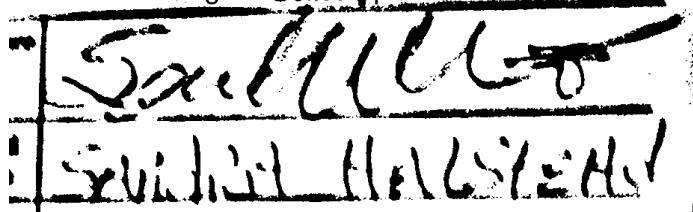
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Date Produced: 09/09/2019


WEST VIRGINIA SECRETARY OF STATE:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 1251 3410 0002 5764 83. Our records indicate that this item was delivered on 09/03/2019 at 06:42 a.m. in CHARLESTON, WV 25322. The scanned image of the recipient information is provided below.

Signature of Recipient :


SCOTT L. HATFIELD

Address of Recipient :


1233

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 257648



Date Produced: 09/02/2019

WEST VIRGINIA SECRETARY OF STATE:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 1251 3410 0002 5763 08. Our records indicate that this item was delivered on 08/31/2019 at 05:15 p.m. in GRAFTON, WV 26354. The scanned image of the recipient information is provided below.

Signature of Recipient :

A handwritten signature in black ink, appearing to read "Allan W. Shipman, Jr." with a stylized flourish at the end.

Address of Recipient :

208 Oak Dale Dr

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 257630